

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 30.11.2016
CORAM
THE HONOURABLE MR. JUSTICE R.SUBBIAH
Writ Petition No.42048 of 2016

D.Lakshmanan

... Petitioner

Versus

1. The government of Tamil Nadu
Rep. by Principal Secretary
School Education Department
Fort St. George
Chennai - 600 009
 2. The Director of School Education
College Road
Chennai - 600 006
 3. The Chief Educational Officer
Tiruppur District
Tiruppur
 4. The District Elementary Education Officer
Tiruppur District
Tiruppur
 5. The Assistant Elementary Education Officer
Kangeyam Panchayat Union
Kangeyam, Tiruppur District
- ... Respondents

Petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, to direct the second respondent to pass order on the proposal dated 18.05.2015 sent by the Chief Educational Officer, Tiruppur District, as informed by the proceedings in Na.Ka.No.2209/A1/2016 dated 19.05.2015 of Chief Educational Officer, Tiruppur District, within the time frame to be fixed by this Court.

For Petitioner : Mr.R.Saseetharan
For Respondents: Mr.V.Anantha Moorthy,
Additional Govt. Pleader (Edu.)

ORDER

By consent, the main writ petition itself is taken up for final disposal.

2. The petitioner has come up with the present writ petition for a mandamus, directing the second respondent to pass order on the proposal dated 18.05.2015 sent by the Chief Educational Officer, Tiruppur District, as informed by the proceedings in Na.Ka.No.2209/A1/2014 dated 19.05.2015 of Chief Educational Officer, Tiruppur District, within the time frame to be fixed by this Court.

3. The petitioner was initially appointed as a basic servant at Govt. High School, Velottamparappu, then Erode District on 02.01.1981 and thereafter, he was promoted as Record Clerk on 20.02.1985. Subsequently, he was promoted as Laboratory Assistant on 22.11.1990 and as Assistant on 04.04.2003. He retired from service on 31.10.2011.

4. According to the petitioner, his services in the post of Junior Assistant was regularized from 08.12.1995. Since the petitioner was belatedly deputed to Bhavani Sagar Training, his probation period could not be declared within two years and hence, his name was not included in the panel for promotion to the post of Assistant. The Government by G.O.(1D) No.40 School Education Department dated 15.03.2002 gave relaxation and declared his probation on 22.12.1997 by exercising power under Rule 48 of State and Subordinate Service Rules. The Government by letter dated 22.01.2014, directed the Director of School Education to grant promotion to those, whose probation period was declared belatedly, from the date on which their juniors were promoted and grant the scale of pay. Thereafter, the Assistant Elementary Education Officer, Kangayam, Tiruppur District on 28.02.2014 sent a proposal to the District Elementary Education Officer, Tiruppur, to grant promotion to the petitioner notionally to the post of Assistant from the date on which his juniors were promoted. But, the Director of School Education by proceedings dated 28.01.2015, pointed out certain defects in the proposal and returned the same. In turn, the Assistant Elementary Officer, re-submitted the proposal. The Chief Educational Officer once again submitted the proposal on 18.05.2015 to the Director of School Education, Chennai. But, no order has been passed on the said proposal. Hence, the petitioner made a representation on 22.02.2014. However, no order was passed by the respondent. Hence, the present writ petition.

6. Heard the learned counsel for the petitioner as well as the learned Additional Government Pleader, who has taken notice on behalf of the respondents.

7. Considering the facts and circumstances of the case and the submissions made on either side, this Court directs the petitioner to give a fresh representation to the second respondent along with a copy of this order, within a period of

two weeks from the date of receipt of a copy of this order and on receipt of the same, to consider the same and pass appropriate orders thereon, on merits and in accordance with law and also based on the proposal dated 18.05.2015 sent by the Chief Educational Officer, Tiruppur District, within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the claim projected by the petitioner and it is for the second respondent to consider the claim of the petitioner strictly on merits and in accordance with law. The writ petition is disposed of accordingly. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Principal Secretary,
School Education Department,
Fort St. George,
Chennai - 600 009.
2. The Director of School Education,
College Road,
Chennai - 600 006.
3. The Chief Educational Officer,
Tiruppur District,
Tiruppur.
4. The District Elementary Education Officer,
Tiruppur District,
Tiruppur.
5. The Assistant Elementary Education Officer,
Kangayam Panchayat Union,
Kangayam, Tiruppur District.

+1 cc to M/s.R.Saseetharan Advocate sr 70936

+1 cc to the Government Pleader High court Madras
sr 71296

W.P.No.42048 of 2016

aa19/01/2017